<u>REMARKS/ARGUMENTS</u>

Reconsideration and allowance of this application are respectfully requested.

Currently, claims 1-13, 15-16 and 18-37 are pending in this application.

<u>Rejection Under 35 U.S.C. §112:</u>

Claim 31 was rejected under 35 U.S.C. §112, second paragraph. In particular, the

Office Action indicated that the limitation "said step of measuring together with the said

tariff" lacks a sufficient antecedent basis. This feature now has a sufficient antecedent

basis and thus Applicant respectfully requests that the rejection of claim 31 under 35

U.S.C. §112, second paragraph, be withdrawn. Applicant notes that claim 31 has not

been further rejected under 35 U.S.C. §102 or §103. Applicant therefore submits that

claim 31 is allowable.

<u>Allowable Subject Matter:</u>

Claims 18-22, 29 and 34-35 have been indicated as being allowable.

<u>Rejections Under 35 U.S.C. §102 and §103:</u>

Claims 1 and 3 were rejected under 35 U.S.C. §102(b) as allegedly being

anticipated by Easki et al (U.S. '547, hereinafter "Easki"). Applicant respectfully

traverses this rejection.

For a reference to anticipate a claim, each element must be found, either expressly

or under principles of inherency, in the reference. Applicant respectfully submits that

Easki fails to disclose each element of the claimed invention. For example, Easki fails to

disclose distributing a tariff to a multiplicity of customer terminals connected to a

communications network, the tariff comprising a formula for calculating a charge as a function of a loading of the communications network, as required by claims 1 and 3.

Easki discloses a charging system for a network in col. 34, line 44 to col. 35, line 32. Immediately preceding this discussion of the charging system, Easki discloses controlling network congestion in col. 34, lines 11-43. Considering these two sections of Easki together, it is clear that Easki fails to disclose distributing tariffs to customer terminals, let alone distributing tariffs which comprise a formula for calculating a charge as a function of the loading of the communications network to which the customer terminals are connected. Easki's proposed solution to network congestion is not dynamic pricing, but rather notifying transmitters of traffic along congested paths in the hope that they will voluntarily reduce the rate at which they are sending data so as to reduce congestion. There is thus no reason in Easki to have the tariff depend on the loading of the network. Easki merely discloses that charging information is recorded and charging correction requests are issued to the respective cell transmitters. There is no disclosure or suggestion of distributing tariffs which comprise a formula for calculating a charge of a function of the loading of the communications network to customer terminals connected to the communications network.

Accordingly, Applicant respectfully submits that claims 1 and 3 are not anticipated by Easki and respectfully requests that the rejection of these claims under 35 U.S.C. §102(b) be withdrawn.

Claim 17 was rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Benoit et al. Claim 17 has been canceled and thus this rejection is deemed moot.

Claims 4-5 and 8-9 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Easki in view of Wulkan et al (WO '749, hereinafter "Wulkan"). Applicant respectfully traverses this rejection. Since claims 4, 5, 8 and 9 depend from claim 1, Applicant submits that all of the above comments regarding Easki apply equally to these claims. Wulkan fails to remedy the above described deficiencies of Easki. In particular, Wulkan discloses storage unit 30 which may be used to store provider and tariff information received from data server 20 and which may be accessed by router 32 to calculate a optimum least cost route (LCR) for a telephone call. While storage unit 30 stores tariff information, there is no teaching or suggestion in Wulkan of the tariff information comprising a formula for calculating a charge as a function of the loading of the network. Accordingly, even if Easki and Wulkan were combined as proposed by the Office Action, the combination would not have taught or suggested all of the claimed limitations. Applicant therefore respectfully requests that the rejection of claims 4-5 and 8-9 under 35 U.S.C. §103 over Easki and Wulkan be withdrawn.

Claims 2, 6-7, 10, 13-16, 23-26 and 33 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Easki in view of Wulkan and further in view of Saari et al (U.S. '046, hereinafter "Saari"). Applicant respectfully traverses this rejection. Claims 2, 6, 7, 10 and 13 depend at least indirectly from claim 1. Applicant submits that Saari fails to remedy the above described deficiencies of Easki and Wulkan. For

example, Saari fails to disclose tariffs distributed to customer terminals which comprise a formula for calculating a charge as a function of the loading of the communications network. Indeed, Saari discloses all of the charge processing being performed within a network.

Independent claim 16 requires, *inter alia*, a plurality of different tariffs distributed to a respective customer terminal attached to a communications network, one or more of the different tariffs being varied in dependence upon the loading of network resources and the plurality of different tariffs having different respective volatilities. Easki in view of Wulkan in further view of Saari fails to teach or suggest these claim limitations. In particular, Saari fails to disclose tariffs having different volatilities.

Independent claim 23 requires, *inter alia*, distributing a tariff to a multiplicity of customer terminals connected to a communications network including communicating separately a formula for calculation of network charges and coefficients for use in the formula. Easki in view of Wulkan and further in view of Saari fails to teach or suggest these claimed features. Saari simply describes numerous occasions that a user's cost will typically depend on parameters which the user is able to choose such as the nominal bit rate and/or a specified priority level for traffic falling within the agreed parameters. The various formulas described by Saari are for calculating a packet's priority level depending on the actual measured bit rate compared to the user's agreed upon and paid for nominal bit rate. Saari fails to teach or suggest tariffs which are distributed with formulas and coefficients distributed to a customer terminal separately.

Independent claim 26 requires, *inter alia*, "a processor connected to the meter and to the store and arranged to calculate using the tariff information and information relating to the measured use by the customer terminal of the network and information relating to the measured state of the network, a network usage charge." The combination of Easki, Wulkan and Saari fails to teach or suggest this claimed feature.

Accordingly, Applicant submits that the rejection of still pending claims 2, 6-7, 10, 13, 15-16, 23-26 and 33 under 35 U.S.C. §103 be withdrawn.

Claims 11-12, 30 and 32 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Easki in view of Wulkan and further in view of Okamoto. Applicant respectfully traverses this rejection. Since claims 11-12 and 30 depend at least indirectly from claim 1, all of the comments made with respect to Easki and Wulkan apply equally to these claims. Okamoto fails to remedy these deficiencies.

Independent claim 32 requires, *inter alia*, "automatically varying, depending on network loading as detected at a customer terminal, a tariff for network usage by a customer terminal, the tariff being distributed to the terminal and comprising a formula for calculating a charge as a function of the loading of the communications network for use by the customer terminal." The combination of Easki, Wulkan and Okamoto fails to teach or suggest this claimed feature. Accordingly, Applicant respectfully submits that claims 11-12, 30 and 32 are not "obvious" over Easki in view of Wulkan and further in view of Okamoto and respectfully requests that the rejection of these claims under 35 U.S.C. §103 be withdrawn.

New Claims:

New claims 36-37 have been added to provide additional protection for the invention. New claim 36 requires, *inter alia*, distributing a tariff to a multiplicity of customer terminals, the tariff comprising a formula for calculating a charge as a function of the state of the communications network to which the customer terminals are connected. Independent claim 37 requires, *inter alia*, a single test to track traffic entering a communications network comprising designating a possibly illegitimate packet(s) as a suspicious packet(s), allowing the suspicious packet(s) to enter the network, and checking to see if the suspicious packet(s) is a permitted packet according to any agreement between an associated customer and an operator of the network, and if not administering a retrospective punishment to the associated customer. Applicant submits that claims 36 and 37 are allowable.
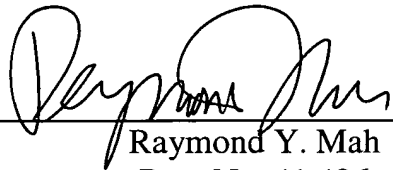
Conclusion:

Applicant believes that this entire application is in condition for allowance and

respectfully requests a notice to this effect. If the Examiner has any questions or believes

that an interview would further prosecution of this application, the Examiner is invited to

telephone the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

Raymond Y. Mah
Reg. No. 41,426

RYM:sl
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
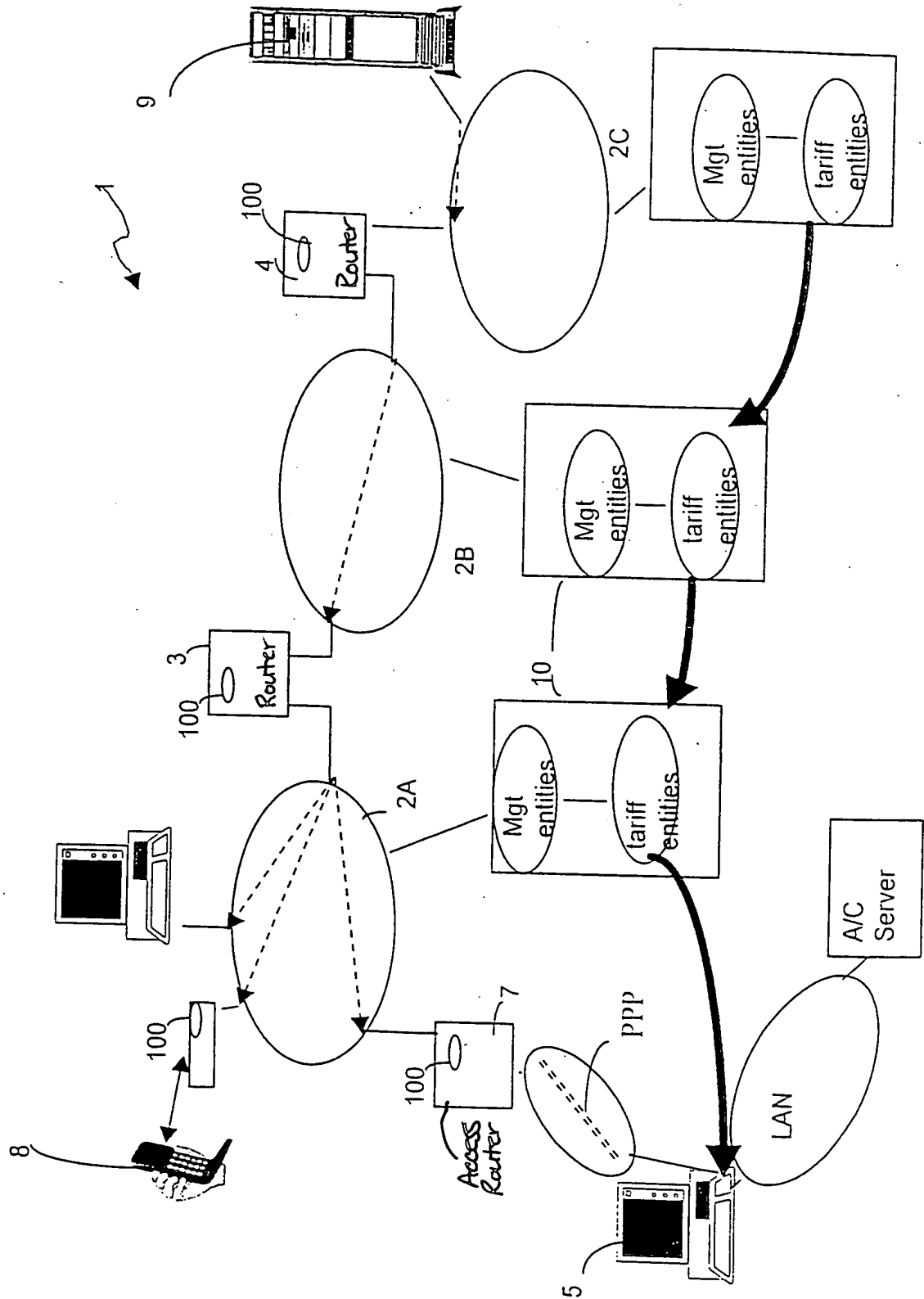Telephone: (703) 816-4044
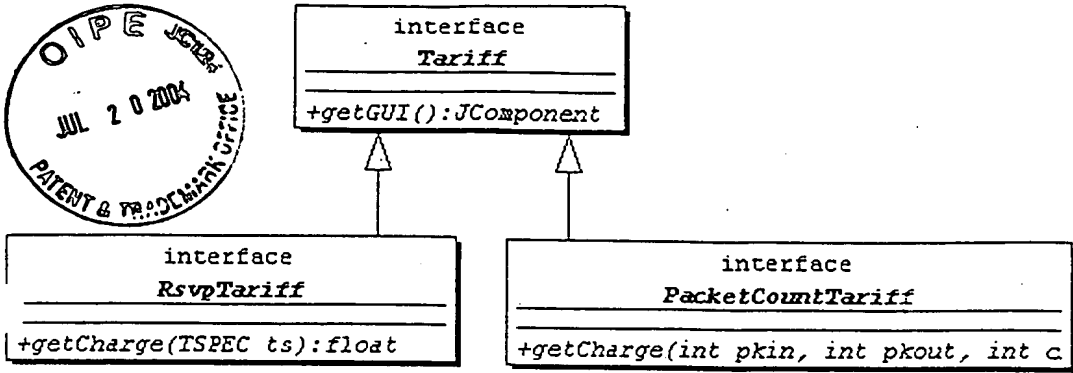Facsimile: (703) 816-4100

Figure 1

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┌─────────────────────────────┐
│         interface           │
│          Tariff             │
├─────────────────────────────┤
├─────────────────────────────┤
│ +getGUI():JComponent        │
└─────────────────────────────┘
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┌─────────────────────────────┐   ┌─────────────────────────────────────┐
│         interface           │   │            interface                │
│        RsvpTariff           │   │        PacketCountTariff            │
├─────────────────────────────┤   ├─────────────────────────────────────┤
├─────────────────────────────┤   ├─────────────────────────────────────┤
│ +getCharge(TSPEC ts):float  │   │ +getCharge(int pkin, int pkout, int c│
└─────────────────────────────┘   └─────────────────────────────────────┘
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